

*Amendment J, Responsive to 13 February 2007 action*RECEIVED
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Appl. no. 09/670,705

Atty. ref. 1G012a0fUS

AUG 13 2007

REMARKS

The Final Action rejects claims 41 and 42 under 35 USC § 112, first paragraph, as failing to comply with the written description requirement. The Applicant has amended claims 41 and 42 to remove the "foam body" limitation. The Applicant respectfully submits, however, that the spacer bodies depicted in FIGS. 2C and 2D disclose tapered notches. The notches disclosed in FIGS. 2C and 2D are wider at one end and are thus tapered. Claim 41 thus generally recites the tapered notches while claim 42 further recites the curved wall structure. The Applicant thus respectfully submits amended claims 41 and 42 comply with section 112.

The Final Action rejects claims 32, 33, and 36-40 under 35 USC § 103(a) as being obvious over the combination of Glover '217 and Battersby '771. The combination of Glover '217 and Battersby '771 is also used to support the rejection of claims 41 and 42 under 35 USC § 103(a). The Applicant respectfully traverses the rejections. The Applicant has amended the independent claims to more clearly recite that the moisture impermeable primary sealant is applied to the notches after the spacer frame is secured to the first and second glass sheets. The combination of references does not disclose, teach, or suggest the steps of applying a primary sealant to notches in the manner recited in the claims. The Applicant respectfully submits the Final Action does not establish a prima facie case of obviousness because the main reference, Glover '217, does not disclose the arrangement of steps described in the action and actually teaches away from the claimed method. As such, the Applicant submits the claims are patentable and are in condition for allowance.

Glover does not disclose the claimed method because Glover only uses notches to hold the pre-applied sealant. When a spacer is sandwiched between the glass sheets, Glover teaches that the sealant is to be applied at the junction of the spacer and the glass. This arrangement is described at Col. 9, line 8 and shown in FIG. 2B wherein the sealant is applied on top of the spacer body. Glover thus teaches away from the claimed invention wherein the sealant is applied only to the notches of the spacer body. The Applicant thus submits one of ordinary skill in the art at the time of the invention would not have been led to make the combination presented in the action because Glover teaches away from the use of notches when applying sealant to a channel disposed outwardly of the spacer. The embodiment of Fig. 2A of Glover '217 discloses a spacer frame configuration having the sealant (44) filling in the

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notches (Col. 8, line 67) before the spacer is sandwiched between the glass sheets. This glazing unit is then passed through a heated roller press to wet out the sealant (44). This application of the sealant (44) in the Fig. 2A embodiment of Glover '217 is opposite to the method recited in the claims wherein the primary sealant is applied to the notches after the spacer frame is secured to the glass sheets. Glover's Fig. 2B shows the alternative wherein the sealant is applied as a fillet at the corner of the spacer and the glass. Glover thus teaches away from the method recited in the claims. A reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant. The degree of teaching away will of course depend on the particular facts; in general, a reference will teach away if it suggests that the line of development flowing from the reference's disclosure is unlikely to be productive of the result sought by the applicant. See *United States v. Adams*, 383 U.S. 39, 52, 148 USPQ 479, 484 (1966) ("known disadvantages in old devices which would naturally discourage the search for new inventions may be taken into account in determining obviousness"). *In re Gurley*, 31 USPQ 2d 1130, 1131 (Fed. Cir. 1994). Glover teaches away from the claimed method and thus does not include the teaching, suggestion, or motivation required to establish a prima facie case of obviousness.

Inquiries concerning this submission should be directed to the attention of the undersigned.

Respectfully submitted,



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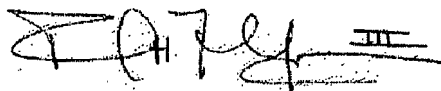
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I hereby certify that this correspondence (Amendment J) is being transmitted by
facsimile to (571) 273-8300 on 13 August 2007.

A handwritten signature in black ink, appearing to read "F. Zollinger III", with a horizontal line underneath.

Fred H. Zollinger III, Reg. No. 39,438